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REMARKS

This Amendment is responsive to the Final Office Action dated Aug. 23, 2005. All rejections and objections of the Examiner are respectfully traversed. Reconsideration and further examination are respectfully requested.

At paragraph 5 of the Office Action, the Examiner objected to claims 7 and 12 based on certain informalities. Amendments to the claims are respectfully believed to satisfy all requirements of the Examiner in this regard.

At paragraphs 6-10 of the Office Action, the Examiner rejected claims 45, 69 and 70 under 35 U.S.C. 101. Claims 69 and 70 have been cancelled. Amendments to claim 45 are respectfully believed to satisfy all requirements of the Examiner in this regard.

At paragraphs 11-79, the Examiner rejected claims 1-5, 7-16, 18-24, 26-35, 37-40, 42-48, 50-59, 61-64 and 66-75 under 35 U.S.C. 102(e), citing U.S. patent 6,331,972 of Harris et al. ("Harris et al."). Applicants respectfully traverse this rejection.

Harris et al. disclose a circuit and method for personalizing an electronic device through a personal area network. The term "peer-to-peer" is defined in Harris et al. to mean having at least common portions of communications protocol and/or capability, and does not refer to equivalence of physical size, functional capability, data processing capacity or transmitter/receiver range or power. In Harris et al., each peer or communication node of a communications network may establish a personal area network based on determining that another node is a compatible node. In a self-initiated process, first and second nodes of Harris et al. form the personal area network, by detecting that they are in a particular proximity to one another and establishing a communication link. When a link is established, the nodes of Harris et al. exchange their needs and capabilities. In the event that needs and capabilities are not able

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to be satisfied or matched, one of the Harris et al. nodes may route communications to a third communication node. See lines 21-45 of column 6 in Harris et al.

Harris et al. specifically describe a task that initiates a setup connection by broadcasting a need/capability message including an ID of a peer system broadcasting the message, an authorization key, a needs specification, a capability specification, and can other data elements. The Harris et al. needs specification is described as a list of network needs currently experienced by the broadcasting peer. The Harris et al. capability specification is described as a list of network capabilities which the broadcasting peer may provide to other peers of the network. Harris et al. further teach that the needs specification may be determined by consulting a need table, through which data codes may be associated with a variety of network service needs which a service-requesting peer may experience.

Harris et al. teach that one exemplary need is that of appliance personalization, in which a PDA might need to personalize nearby appliances. To satisfy this need, some Harris et al. devices may be programmed with personalization data.

Nowhere in Harris et al. is there disclosed or suggested any system or method for providing a personalized service in a communication system that includes:

detecting physical presence *of a user*, wherein the detecting includes a determination, based on *at least one physical attribute of the user*, that *the user is currently in close physical proximity to the communication system*, and  
providing the personalized service to the user based upon the physical presence of the user. (emphasis added)

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as in the present independent claim 1. Analogous features are also found in independent claims 21, 45 and 71. Harris et al. describes a system that tests for the proximity of "peers", as is provided at line 11 of column 9:

Generally, task 58 allows a first *peer* 20 to determine whether a second *peer* 20 is physically proximate to the first peer 20. Task 58 causes transmit and receive section 38 (FIG. 2) to monitor wireless communication link 26 (FIG. 1) to determine whether a signal compatible with a protocol being used by network 22 (FIG. 1) can be received. Due to the above-described low transmission power levels used by peers 20, when a signal is detected, the peer 20 sending the signal is located near the receiving peer 20. (emphasis added)

As shown in the above text, the proximity of a peer in Harris et al. is determined by reception of a signal transmitted by that peer. The peers of Harris et al. are clearly described as electronic devices in a communication network. At the outset of the Detailed Description, Harris et al. defines "peers" beginning at line 11 of column 6, with reference to Fig. 1 of Harris et al., as follows:

FIG. 1 is a layout diagram depicting relationships between various peers (P) 20 in capability addressable, wireless, peer-to-peer data communication network 22 configured in accordance with the teaching of the present invention. While FIG. 1 shows only few peers 20, *virtually any computer or microprocessor controlled electronic device throughout the world may serve as a peer 20.* Accordingly, network 22 supports an unlimited number of possible connections between peers 20. (emphasis added)

The above aspects of Harris et al. describing peer proximity stand in contrast to the features of the present independent claims, which involve detecting physical presence of *a user* that includes determining that *the user* is currently in close physical proximity to the communication system. The peer electronic devices in the communication network of Harris et al. are clearly not users, as

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that term would be understood by those skilled in the art. The peer devices of Harris et al. accordingly do not correspond to the users referred to in the above cited features of the present independent claims.

For the above reasons, Applicants respectfully urge that Harris et al. does not disclose or suggest all the features of the present invention as set forth in independent claims 1, 21, 45 and 71. Accordingly, Harris et al. does not anticipate the present independent claims 1, 21, 45 and 71 under 35 U.S.C. 102. Claim 70 has been cancelled. As to the remaining claims, they each depend from independent claims 1, 21, 45 and 71, and are believed to be patentable over Harris et al. for at least the same reasons.

At paragraphs 80-84 of the Office Action, the Examiner rejected claims 6, 25 and 49 under 35 U.S.C. 103(a), citing the combination of Harris et al. and U.S. patent number 6,104,913 of McAllister ("McAllister"). Applicants respectfully traverse this rejection.

McAllister discloses a personal area network (PAN) device that enables communication of data using galvanic properties of the skin. When a person wearing a processor coupled to a McAllister PAN touches a sensor capable of communicating with the PAN, the processor sends and receives data through the PAN and the sensor. In the McAllister system, the processor stores personal information related to the wearer's telephone service, such as the person's identification and billing information, as well as information relating to the person's telephone subscriber profile, defining that person's individualized telephone services. A telephone of McAllister communicates the data through the telephone network, to enable the network to provide personalized services. See Abstract. The McAllister system is intended to eliminate any question as to whether or not a caller or user with an authentic PAN device is the rightful or authorized possessor of that device, and further provides multiple arrangements whereby PAN

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devices enable new personalized and other advanced telecommunication services. See column 5, lines 54-67 and column 6, lines 1-13 and 55-60. Additionally, McAllister describes responding to service requests by identifying the individual subscriber or user, preferably using a speaker identification/verification procedure, or other biometric characteristics of the user, such as finger or hand prints may be used.

As set forth above with regard to the rejections under 35 U.S.C. 102, Harris et al. does not disclose or suggest the features of the present independent claims 1, 21 and 45. Claims 6, 25 and 49 depend from those independent claims, and accordingly include all the limitations therein. Furthermore, nowhere in the combination of Harris et al. and McAllister is there disclosed or suggested any system or method for providing a personalized service in a communication system, including:

*detecting physical presence of a user, wherein the detecting includes a determination, based on at least one physical attribute of the user, that the user is currently in close physical proximity to the communication system; and*

*providing the personalized service to the user based upon the physical presence of the user. (emphasis added)*

as in the present independent claim 1. Analogous features are also found in independent claims 21 and 45. Applicants therefore respectfully urge that the combination of Harris et al. and McAllister does not disclose or suggest all the features of the present invention as set forth in independent claims 1, 21 and 45, from which claims 6, 25 and 49 depend. As a result, the combination of Harris et al. and McAllister does not support a *prima facie* case of obviousness under 35 U.S.C. 103 with regard to claims 1, 21 and 45. Claims 6, 25 and 49 are respectfully

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believed to be patentable over the combination of Harris et al. and McAllister for at least the same reasons.

At paragraphs 85-90 of the Office Action, the Examiner rejected claims 17, 36, 41, 60 and 65 under 35 U.S.C. 103(a), citing the combination of Harris et al. and U.S. patent number 5,493,692 of Theimer et al. ("Theimer et al."). Applicants respectfully traverse this rejection.

Theimer et al. disclose a method for selectively delivering electronic messages to an identified user or users in a system of mobile and fixed devices based on the context of the system and the environment of an identified user. Theimer et al. specifically disclose a system in which a User Agent starts up by locating and reading the User Profile and user calendar information of an identified user. The user's calendar information resides at a location in a file system known to the Theimer et al. User Agent, and may include a wide variety of user-specific information, including but not limited to meetings that are scheduled, and reminder notes that the user wishes to have delivered under various circumstances depending upon time, location, or context of the user. See column 10, lines 28-38. Theimer et al. disclose an example of the application of selective electronic message delivery, in which user.sub.A's reminder request may specify attributes affecting the delivery of the message, such as that user.sub.A may not wish to have the reminder sent if there are other people present in proximity to his display device, or that user.sub.A may wish to be reminded immediately if he is in proximity to user.sub.B within a half hour of the scheduled meeting, that he may not want the message delivered until he is alone with user.sub.B, etc.

As set forth above with regard to the rejections under 35 U.S.C. 102, Harris et al. does not disclose or suggest the features of the present independent claims 1, 21 and 45. Claims 17, 36, 41, 60 and 65 depend from those independent claims, and accordingly include all the limitations

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therein. Furthermore, nowhere in the combination of Harris et al. and Theimer et al. is there disclosed or suggested any system or method for providing a personalized service in a communication system, including:

*detecting physical presence of a user, wherein the detecting includes a determination, based on at least one physical attribute of the user, that the user is currently in close physical proximity to the communication system; and*

*providing the personalized service to the user based upon the physical presence of the user. (emphasis added)*

as in the present independent claim 1. Analogous features are also found in independent claims 21 and 45. Applicants therefore respectfully urge that the combination of Harris et al. and Theimer et al. does not disclose or suggest all the features of the present invention as set forth in independent claims 1, 21 and 45, from which claims 17, 36, 41, 60 and 65 depend. Accordingly, the combination of Harris et al. and Theimer et al. does not support a *prima facie* case of obviousness under 35 U.S.C. 103 with regard to claims 1, 21 and 45. Claims 17, 36, 41 and 65 are respectfully believed to be patentable over the combination of Harris et al. and Theimer et al. for at least the same reasons.

Reconsideration of all pending claims is respectfully requested.

Applicants respectfully request that the rejections in the Office Action be withdrawn.

Applicants have made a diligent effort to place the application in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 617-630-1131 so that such issues may be resolved as expeditiously as possible.

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For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date

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